

Assembly Bill No. 1592

Passed the Assembly August 19, 2010

Chief Clerk of the Assembly

Passed the Senate August 18, 2010

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2010, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 19999.3, 21353, 21354.1, 21363.1, 21363.4, and 21369.1 of, and to add Sections 19829.7, 19829.8, 19829.9, 19829.95, 20037.14, 20677.6, 20677.7, 20677.9, 20677.95, and 21369.2 to, the Government Code, relating to state employees, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1592, Buchanan. State employees: memorandum of understanding.

(1) Existing law provides that if any provision of a memorandum of understanding reached between the state employer and a recognized employee organization representing state civil service employees requires the expenditure of funds, those provisions of the memorandum of understanding shall not become effective unless approved by the Legislature in the annual Budget Act.

This bill would approve provisions that require the expenditure of funds for memoranda of understanding entered into between the state employer and State Bargaining Units 8, 16, and 19 and would provide that the provisions of any memorandum of understanding that require the expenditure of funds shall become effective even if the provisions of the memorandum of understanding are approved by the Legislature in legislation other than the annual Budget Act.

The bill would provide that provisions of the memoranda of understanding approved by this bill that require the expenditure of funds will not take effect unless funds for these provisions are specifically appropriated by the Legislature, and would authorize the state employer and the affected employee organizations to reopen negotiations on all or part of the memorandum of understanding if the memorandum of understanding that requires the expenditure of funds is not approved by the Legislature.

This bill would, with respect to salaries that are continuously appropriated prior to the enactment of the annual Budget Act, require the Director of Finance to reduce the necessary items for the payment of salaries from specified funds scheduled in that

Budget Act to reflect the salaries paid prior to the enactment of the annual Budget Act.

(2) Existing law establishes an alternate retirement program and provides that state employees, as defined, who become new members of the Public Employees' Retirement System (PERS) during their first 24 months of employment, do not make contributions to the system or receive service credit for their service, and the state employer shall not make contributions on their behalf. These members are instead required to contribute either 5% or 6% of their monthly compensation, as specified, to the alternate retirement program, administered by the Department of Personnel Administration, and these contributions cease when the state employees begin making their own contributions to PERS.

This bill would require all state employees participating in the alternate retirement system to contribute an amount equal to the same amount that employees in the same employment classifications in the same state bargaining units are required to contribute to PERS.

(3) The Public Employees' Retirement Law (PERL) provides a comprehensive set of rights and benefits based upon age, service credit, and final compensation. Existing law defines final compensation variously for different member classifications and bargaining units and, in this regard, defines final compensation for a state member for the purpose of calculating retirement benefits as the highest annual average compensation earnable by the member during a designated 12-month or 36-month period, depending upon the bargaining unit and classification of that employee. Currently the final compensation for members hired on or after July 1, 2006, who are represented by State Bargaining Units 12, 16, 18, and 19, means the final compensation earnable by the member during a designated 36-month period.

This bill would provide that final compensation for a person who becomes a state member, as specified, on or after October 31, 2010, and who is represented by State Bargaining Units 5 and 8, means the highest annual average compensation earnable by the member during a designated 36-month period.

(4) PERL provides that the contribution rate for state miscellaneous members and specified state safety members is 5% or 6% of the compensation in excess of \$513. Existing law provides that the contribution rate for specified state firefighters is 8% of

compensation in excess of \$238 per month. Existing law provides that the contribution rate for specified state safety patrol members is 8% of the compensation in excess of \$863 per month.

This bill would increase the contributions rates by 5% for state miscellaneous members of State Bargaining Units 5, 8, 12, 16, 18, and 19 and state safety members of State Bargaining Units 12, 16, 18, and 19, and by 2% for state firefighter members of State Bargaining Unit 8 and state patrol members of State Bargaining Unit 5. By increasing member contributions into a continuously appropriated fund, this bill would make an appropriation.

(5) PERL establishes various retirement formulas that apply to specified membership categories. Under PERL, state miscellaneous members are generally subject to a retirement formula commonly known as 2% at 55, which, if the member retires at 55 years of age, yields a benefit equal to 2% of the member's final compensation multiplied by the member's years of service credit, as specified. Under PERL, patrol members and specified state peace officer/firefighter members are generally subject to a 3% at 50 retirement formula. Under PERL, state safety members are generally subject to a 2.5% at 55 retirement formula.

This bill would provide that state miscellaneous members who are first employed on and after the date the act takes effect, are subject to a 2% at 60 retirement formula. The bill would also provide that patrol members and firefighter members in State Bargaining Units 5 and 8 who are first employed on and after October 31, 2010, are subject to a 3% at 55 retirement formula.

(6) The annual Budget Act appropriates specified amounts from the General Fund, unallocated special funds, and unallocated nongovernmental cost funds, for state employee compensation.

This bill would, in the event that the annual Budget Act is not enacted prior to July 1 of each year covered by the memoranda of understanding for State Bargaining Units 5, 8, 12, 16, 18, and 19, provide for a continuous appropriation for the amount necessary for the payment of compensation and benefits to members of those bargaining units.

(7) This bill would provide that its provisions would not become operative unless SB 846 of the 2009–10 Regular Session is enacted and takes effect on or before January 1, 2011.

(8) This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares that the purpose of this act is to approve the provisions of agreements pursuant to Section 3517.6 of the Government Code entered into by the state employer and State Bargaining Units 8 (the California Department of Forestry Firefighters), 16 (the Union of American Physicians and Dentists), and 19 (the American Federation of State, County, and Municipal Employees) that require the expenditure of funds.

SEC. 2. The provisions of the memorandum of understanding prepared pursuant to Section 3517.5 of the Government Code and entered into by the state employer and State Bargaining Unit 8 on June 16, 2010, State Bargaining Unit 16 on June 25, 2010, and State Bargaining Unit 19 on June 16, 2010, and that require the expenditure of funds, are hereby approved for the purposes of Section 3517.6 of the Government Code.

SEC. 3. The provisions of the memoranda of understanding approved by Section 1 of this act that are scheduled to take effect on or after July 1, 2010, and that require the expenditure of funds, shall not take effect unless funds for these provisions are specifically appropriated by the Legislature. If the Legislature does not approve or fully fund any provision of the memorandum of understanding that requires the expenditure of funds, either party may reopen negotiations on all or part of the memorandum of understanding.

SEC. 4. Notwithstanding Section 3517.6 of the Government Code, the provisions of any memorandum of understanding that require the expenditure of funds shall become effective even if the provisions of the memorandum of understanding are approved by the Legislature in legislation other than the annual Budget Act.

SEC. 5. Notwithstanding any provision of law, if the 2010–11 Budget Act is not enacted prior to the effective date of this act, and in the event that a memorandum of understanding goes into effect pursuant to the Ralph C. Dills Act (Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1 of the Government Code) or there is a corresponding adjustment to nonrepresented employees consistent with those of related

classifications and groups of represented employees, the Director of Finance shall reduce the necessary items of the General Fund, as appropriate, to reflect a reduction in the total amount of up to \$49,800,000 and other funds, as appropriate, to reflect a reduction in the total amount of up to \$15,100,000 in the annual Budget Act and applicable non-Budget Act items via Executive order. Nothing in this section shall be construed to change or expand the existing ability of the administration to adjust salaries or benefits of nonrepresented employees.

SEC. 6. Section 19829.7 is added to the Government Code, to read:

19829.7. (a) Notwithstanding Section 13340, for the 2010–11 fiscal year, if the 2010–11 Budget Act is not enacted by July 1, 2010, for the memoranda of understanding entered into between the state employer and State Bargaining Unit 5 (effective July 3, 2010, to July 3, 2013, inclusive), State Bargaining Unit 8 (effective July 1, 2010, to July 1, 2013, inclusive), State Bargaining Unit 12 (effective July 1, 2010, to July 1, 2012, inclusive), State Bargaining Unit 16 (effective July 1, 2010, to July 1, 2012, inclusive), State Bargaining Unit 18 (effective July 1, 2010, to July 1, 2012, inclusive), and State Bargaining Unit 19 (effective July 1, 2010, to July 1, 2012, inclusive), there is hereby continuously appropriated to the Controller from the General Fund, unallocated special funds, including, but not limited to, federal funds and unallocated nongovernmental cost funds, and any other fund from which state employees are compensated, the amount necessary for the payment of compensation and employee benefits to state employees covered by the above memoranda of understanding until the 2010–11 Budget Act is enacted. The Controller may expend an amount no greater than necessary to enable the Controller to compensate state employees covered by the above memoranda of understanding for work performed between July 1, 2010, of the 2010–11 fiscal year and the enactment of the 2010–11 Budget Act.

(b) If the memoranda of understanding entered into between the state employer and State Bargaining Unit 5 (effective July 3, 2010, to July 3, 2013, inclusive), State Bargaining Unit 8 (effective July 1, 2010, to July 1, 2013, inclusive), State Bargaining Unit 12 (effective July 1, 2010, to July 1, 2012, inclusive), State Bargaining Unit 16 (effective July 1, 2010, to July 1, 2012, inclusive), State

Bargaining Unit 18 (effective July 1, 2010, to July 1, 2012, inclusive), and State Bargaining Unit 19 (effective July 1, 2010, to July 1, 2012, inclusive) are in effect and approved by the Legislature, the compensation and contribution for employee benefits for state employees represented by these bargaining units shall be at a rate consistent with the applicable memorandum of understanding referenced above.

(c) Expenditures related to any warrant drawn pursuant to subdivision (a) are not augmentations to the expenditure authority of a department. Upon enactment of the 2010–11 Budget Act, these expenditures shall be subsumed by the expenditure authority approved in the 2010–11 Budget Act for each affected department.

(d) This section shall only apply to an employee covered by the terms of the State Bargaining Unit 5 (effective July 3, 2010, to July 3, 2013, inclusive), State Bargaining Unit 8, (effective July 1, 2010, to July 1, 2013, inclusive), State Bargaining Unit 12 (effective July 1, 2010, to July 1, 2012, inclusive), State Bargaining Unit 16 (effective July 1, 2010, to July 1, 2012, inclusive), State Bargaining Unit 18 (effective July 1, 2010, to July 1, 2012, inclusive), and State Bargaining Unit 19 (effective July 1, 2010, to July 1, 2012, inclusive) memoranda of understanding. Notwithstanding Section 3517.8, this section shall not apply after the term of the memorandum of understanding expires. For purposes of this section, the memorandum of understanding for State Bargaining Unit 5 expires on July 3, 2013, the memorandum of understanding for State Bargaining Unit 8 expires on July 1, 2013, the memorandum of understanding for State Bargaining Unit 12 expires on July 1, 2012, the memorandum of understanding for State Bargaining Unit 16 expires on July 1, 2012, the memorandum of understanding for State Bargaining Unit 18 expires on July 1, 2012, and the memorandum of understanding for State Bargaining Unit 19 expires on July 1, 2012.

SEC. 7. Section 19829.8 is added to the Government Code, to read:

19829.8. (a) Notwithstanding Section 13340, for the 2011–12 fiscal year, if the 2011–12 Budget Act is not enacted by July 1, 2011, for the memoranda of understanding entered into between the state employer and State Bargaining Unit 5 (effective July 3, 2010, to July 3, 2013, inclusive), State Bargaining Unit 8 (effective July 1, 2010, to July 1, 2013, inclusive), State Bargaining Unit 12

(effective July 1, 2010, to July 1, 2012, inclusive), State Bargaining Unit 16 (effective July 1, 2010, to July 1, 2012, inclusive), State Bargaining Unit 18 (effective July 1, 2010, to July 1, 2012, inclusive), and State Bargaining Unit 19 (effective July 1, 2010, to July 1, 2012, inclusive), there is hereby continuously appropriated to the Controller from the General Fund, unallocated special funds, including, but not limited to, federal funds and unallocated nongovernmental cost funds, and any other fund from which state employees are compensated, the amount necessary for the payment of compensation and employee benefits to state employees covered by the above memoranda of understanding until the 2011–12 Budget Act is enacted. The Controller may expend an amount no greater than necessary to enable the Controller to compensate state employees covered by the above memoranda of understanding for work performed between July 1, 2011, of the 2011–12 fiscal year and the enactment of the 2011–12 Budget Act.

(b) If the memoranda of understanding entered into between the state employer and State Bargaining Unit 5 (effective July 3, 2010, to July 3, 2013, inclusive), State Bargaining Unit 8 (effective July 1, 2010, to July 1, 2013, inclusive), State Bargaining Unit 12 (effective July 1, 2010, to July 1, 2012, inclusive), State Bargaining Unit 16 (effective July 1, 2010, to July 1, 2012, inclusive), State Bargaining Unit 18 (effective July 1, 2010, to July 1, 2012, inclusive), and State Bargaining Unit 19 (effective July 1, 2010, to July 1, 2012, inclusive) are in effect and approved by the Legislature, the compensation and contribution for employee benefits for state employees represented by these bargaining units shall be at a rate consistent with the applicable memorandum of understanding referenced above.

(c) Expenditures related to any warrant drawn pursuant to subdivision (a) are not augmentations to the expenditure authority of a department. Upon the enactment of the 2011–12 Budget Act, these expenditures shall be subsumed by the expenditure authority approved in the 2010–11 Budget Act for each affected department.

(d) This section shall only apply to an employee covered by the terms of the State Bargaining Unit 5 (effective July 3, 2010, to July 3, 2013, inclusive), State Bargaining Unit 8 (effective July 1, 2010, to July 1, 2013, inclusive), State Bargaining Unit 12 (effective July 1, 2010, to July 1, 2012, inclusive), State Bargaining

Unit 16 (effective July 1, 2010, to July 1, 2012, inclusive), State Bargaining Unit 18 (effective July 1, 2010, to July 1, 2012, inclusive), and State Bargaining Unit 19 (effective July 1, 2010, to July 1, 2012, inclusive) memoranda of understanding. Notwithstanding Section 3517.8, this section shall not apply after the term of the memorandum of understanding has expired. For purposes of this section, the memorandum of understanding for State Bargaining Unit 5 expires on July 3, 2013, the memorandum of understanding for State Bargaining Unit 8 expires on July 1, 2013, the memorandum of understanding for State Bargaining Unit 12 expires on July 1, 2012, the memorandum of understanding for State Bargaining Unit 16 expires on July 1, 2012, the memorandum of understanding for State Bargaining Unit 18 expires on July 1, 2012, and the memorandum of understanding for State Bargaining Unit 19 expires on July 1, 2012.

SEC. 8. Section 19829.9 is added to the Government Code, to read:

19829.9. (a) Notwithstanding Section 13340, for the 2012–13 fiscal year, if the 2012–13 Budget Act is not enacted by July 1, 2012, for the memoranda of understanding entered into between the state employer and State Bargaining Unit 5 (effective July 3, 2010, to July 3, 2013, inclusive) and State Bargaining Unit 8 (effective July 1, 2010, to July 1, 2013, inclusive), there is hereby continuously appropriated to the Controller from the General Fund, unallocated special funds, including, but not limited to, federal funds and unallocated nongovernmental cost funds, and any other fund from which state employees are compensated, the amount necessary for the payment of compensation and employee benefits to state employees covered by the above memoranda of understanding until the 2012–13 Budget Act is enacted. The Controller may expend an amount no greater than necessary to enable the Controller to compensate state employees covered by the above memoranda of understanding for work performed between July 1, 2012, of the 2012–13 fiscal year and the enactment of the 2012–13 Budget Act.

(b) Notwithstanding Section 13340, solely for the effective period of the following memoranda of understanding, and not including a date beyond the expiration date of the following memoranda of understanding, for the 2012–13 fiscal year, where the 2012–13 Budget Act is not enacted by July 1, 2012, for the

memoranda of understanding entered into between the state employer and State Bargaining Unit 12 (effective July 1, 2010, to July 1, 2012, inclusive), State Bargaining Unit 16 (effective July 1, 2010, to July 1, 2012, inclusive), State Bargaining Unit 18 (effective July 1, 2010, to July 1, 2012, inclusive), and State Bargaining Unit 19 (effective July 1, 2010, to July 1, 2012, inclusive), there is hereby continuously appropriated to the Controller from the General Fund, unallocated special funds, including, but not limited to, federal funds and unallocated nongovernmental cost funds, and any other fund from which state employees are compensated, the amount necessary for the payment of compensation and employee benefits to state employees covered by the above memoranda of understanding until the 2012–13 Budget Act is enacted.

(c) If the memoranda of understanding entered into between the state employer and State Bargaining Unit 5 (effective July 3, 2010, to July 3, 2013, inclusive), State Bargaining Unit 8 (effective July 1, 2010, to July 1, 2013, inclusive), State Bargaining Unit 12 (effective July 1, 2010, to July 1, 2012, inclusive), State Bargaining Unit 16 (effective July 1, 2010, to July 1, 2012, inclusive), State Bargaining Unit 18 (effective July 1, 2010, to July 1, 2012, inclusive), and State Bargaining Unit 19 (effective July 1, 2010, to July 1, 2012, inclusive) are in effect and approved by the Legislature, the compensation and contribution for employee benefits for state employees represented by these bargaining units shall be at a rate consistent with the applicable memorandum of understanding referenced above.

(d) Expenditures related to any warrant drawn pursuant to subdivisions (a) and (b) are not augmentations to the expenditure authority of a department. Upon enactment of the 2012–13 Budget Act, these expenditures shall be automatically subsumed by the expenditure authority approved in the 2012–13 Budget Act for each affected department.

(e) This section shall only apply to an employee covered by the terms of the State Bargaining Unit 5 (effective July 3, 2010, to July 3, 2013, inclusive), State Bargaining Unit 8 (effective July 1, 2010, to July 1, 2013, inclusive), State Bargaining Unit 12 (effective July 1, 2010, to July 1, 2012, inclusive), State Bargaining Unit 16 (effective July 1, 2010, to July 1, 2012, inclusive), State Bargaining Unit 18 (effective July 1, 2010, to July 1, 2012,

inclusive), and State Bargaining Unit 19 (effective July 1, 2010, to July 1, 2012, inclusive) memoranda of understanding. Notwithstanding Section 3517.8, this section shall not apply after the term of the memorandum of understanding expires. For purposes of this section, the memorandum of understanding for State Bargaining Unit 5 expires on July 3, 2013, the memorandum of understanding for State Bargaining Unit 8 expires on July 1, 2013, the memorandum of understanding for State Bargaining Unit 12 expires on July 1, 2012, the memorandum of understanding for State Bargaining Unit 16 expires on July 1, 2012, the memorandum of understanding for State Bargaining Unit 18 expires on July 1, 2012, and the memorandum of understanding for State Bargaining Unit 19 expires on July 1, 2012.

SEC. 9. Section 19829.95 is added to the Government Code, to read:

19829.95. (a) Notwithstanding Section 13340, solely for the effective period of the following memoranda of understanding, and not including a date beyond the expiration date of the following memoranda of understanding, for the 2013–14 fiscal year, where the 2013–14 Budget Act is not enacted by July 1, 2013, for the memoranda of understanding entered into between the state employer and State Bargaining Unit 5 (effective July 3, 2010, to July 3, 2013, inclusive) and State Bargaining Unit 8 (effective July 1, 2010, to July 1, 2013, inclusive), there is hereby continuously appropriated to the Controller from the General Fund, unallocated special funds, including, but not limited to, federal funds and unallocated nongovernmental cost funds, and any other fund from which state employees are compensated, the amount necessary for the payment of compensation and employee benefits to state employees covered by the above memoranda of understanding until the 2013–14 Budget Act is enacted.

(b) If the memoranda of understanding entered into between the state employer and State Bargaining Unit 5 (effective July 3, 2010, to July 3, 2013, inclusive) and State Bargaining Unit 8 (effective July 1, 2010, to July 1, 2013, inclusive) are in effect and approved by the Legislature, the compensation and contribution for employee benefits for state employees represented by these bargaining units shall be at a rate consistent with the applicable memorandum of understanding referenced above.

(c) Expenditures related to any warrant drawn pursuant to subdivision (a) are not augmentations to the expenditure authority of a department. Upon the enactment of the 2013–14 Budget Act, these expenditures shall be subsumed by the expenditure authority approved in the 2013–14 Budget Act for each affected department.

(d) This section shall only apply to an employee covered by the terms of the State Bargaining Unit 5 (effective July 3, 2010, to July 3, 2013, inclusive) and State Bargaining Unit 8 (effective July 1, 2010, to July 1, 2013, inclusive) memoranda of understanding. Notwithstanding Section 3517.8, this section shall not apply after the term of the memorandum of understanding expires. For purposes of this section, the memorandum of understanding for State Bargaining Unit 5 expires on July 3, 2013, and the memorandum of understanding for State Bargaining Unit 8 expires on July 1, 2013.

SEC. 10. Section 19999.3 of the Government Code is amended to read:

19999.3. (a) The Legislature finds and declares that this chapter is intended to provide an alternate retirement program for new state employees who are members of the Public Employees' Retirement System pursuant to Section 20281.5 and who, during the 24 months of employment following the date they qualify for membership in the system pursuant to that section, do not make contributions into the defined benefit retirement program.

(b) The Legislature hereby authorizes the development of a retirement program under the Deferred Compensation Plan, the tax-deferred Savings Plan, or any other acceptable defined contribution plan.

(c) The state employees described in subdivision (a) who are employed in positions that are subject to the federal system, as defined in Section 20033, shall contribute to the retirement program 5 percent of compensation, as set forth in Part 3 (commencing with Section 20000), in excess of five hundred thirteen dollars (\$513) per month paid to that member for service rendered. The state employer shall pick up the contribution, as authorized by Section 414(h) of the Internal Revenue Code, and shall deduct the contribution from the employee's compensation. The contributions required by this subdivision shall cease when the state employee begins making contributions to the defined benefit retirement program.

(d) State employees hired on or after July 1, 2006, who are represented by State Bargaining Unit 2 and are employed in positions that are subject to the federal system, as defined in Section 20033, shall contribute to the retirement program 6 percent of compensation, as set forth in Part 3 (commencing with Section 20000), in excess of five hundred thirteen dollars (\$513) per month paid to that member for service rendered. The state employer shall pick up the contribution, as authorized by Section 414 (h) of the Internal Revenue Code, and shall deduct the contribution from the employee's compensation. The contributions required by this subdivision shall cease when the state employee begins making contributions to the defined benefit retirement program.

(e) Beginning with the first pay period following the effective date of this subdivision, all state employees who are subject to this section shall make contributions required by this section in the same amount as contributions made by employees in the same employment classifications and state bargaining units who are members subject to Part 3 (commencing with Section 20000) of Division 5 of Title 2. Consistent with the normal rate of contribution for all members identified in this subdivision, the Director of the Department of Personnel Administration may exercise his or her discretion to establish the normal rate of contribution for a related state employee who is excepted from the definition of "state employee" in subdivision (c) of Section 3513, and an officer or employee of the executive branch of state government who is not a member of the civil service.

(f) (1) "State employees," as used in this section, include employees, as defined in Section 19815.

(2) This section shall not apply to employees of the California State University, the University of California, or the legislative or judicial branch.

(g) If the retirement program authorized by this section is inconsistent with federal laws or rules or becomes unnecessary under state or federal law, this section shall become inoperative.

SEC. 11. Section 20037.14 is added to the Government Code, to read:

20037.14. (a) Notwithstanding Sections 20035 and 20037, final compensation for a person who is employed by the state for the first time and becomes a state member of the system on or after October 31, 2010, and is represented by State Bargaining Unit 5

or 8, means the highest average annual compensation earnable by the member during the consecutive 36-month period immediately preceding the effective date of his or her retirement, or the date of his or her last separation from state service if earlier, or during any other period of 36 consecutive months during his or her state membership that the member designates on the application for retirement.

(b) This section applies to service credit accrued while a member of State Bargaining Unit 5 or 8 or in a class related to State Bargaining Unit 5 or 8 as an employee who is excepted from the definition of “state employee” in subdivision (c) of Section 3513, or an officer or employee of the executive branch of state government who is not a member of the civil service.

(c) This section does not apply to:

(1) Former state employees previously employed before October 31, 2010, who return to state employment on or after October 31, 2010.

(2) State employees hired prior to October 31, 2010, who were subject to Section 20281.5 during the first 24 months of state employment.

(3) State employees hired prior to October 31, 2010, who become subject to representation by State Bargaining Unit 5 or 8 on or after October 31, 2010.

(4) State employees on an approved leave of absence employed before October 31, 2010, who return to active employment on or after October 31, 2010.

SEC. 12. Section 20677.6 is added to the Government Code, to read:

20677.6. (a) Notwithstanding Section 20677.4, effective with the beginning of the pay period following the effective date of this section, the normal rate of contribution for state miscellaneous or state industrial members who are represented by State Bargaining Units 12, 16, 18, and 19, shall be:

(1) Eleven percent of the compensation in excess of three hundred seventeen dollars (\$317) per month paid to a member whose service is not included in the federal system.

(2) Ten percent of compensation in excess of five hundred thirteen dollars (\$513) per month paid to that member whose service has been included in the federal system.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless and until approved by the Legislature in the annual Budget Act.

(c) Consistent with the normal rate of contribution for all members identified in this subdivision, the Director of the Department of Personnel Administration may exercise his or her discretion to establish the normal rate of contribution for a related state employee who is excepted from the definition of “state employee” in subdivision (c) of Section 3513, and an officer or employee of the executive branch of state government who is not a member of the civil service.

SEC. 13. Section 20677.7 is added to the Government Code, to read:

20677.7. (a) Notwithstanding Section 20677.4, effective with the beginning of the September 2010 pay period, the normal rate of contribution for state miscellaneous or state industrial members who are represented by State Bargaining Units 5 and 8, shall be:

(1) Eleven percent of the compensation in excess of three hundred seventeen dollars (\$317) per month paid to a member whose service is not included in the federal system.

(2) Ten percent of compensation in excess of five hundred thirteen dollars (\$513) per month paid to that member whose service has been included in the federal system.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless and until approved by the Legislature in the annual Budget Act.

(c) Consistent with the normal rate of contribution for all members identified in this subdivision, the Director of the Department of Personnel Administration may exercise his or her discretion to establish the normal rate of contribution for a related

state employee who is excepted from the definition of “state employee” in subdivision (c) of Section 3513, and an officer or employee of the executive branch of state government who is not a member of the civil service.

SEC. 14. Section 20677.9 is added to the Government Code, to read:

20677.9. (a) Notwithstanding Section 20683, effective with the beginning of the pay period following the effective date of this section, the normal rate of contribution for state safety members who are represented by State Bargaining Units 12, 16, 18, and 19 shall be 11 percent of compensation in excess of three hundred seventeen dollars (\$317) per month paid to a member whose service is not included in the federal system or in excess of five hundred thirteen dollars (\$513) for one whose service is included in the federal system.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if those provisions of the memorandum of understanding require the expenditure of funds, those provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(c) Consistent with the normal rate of contribution for all members identified in this subdivision, the Director of the Department of Personnel Administration may exercise his or her discretion to establish the normal rate of contribution for a related state employee who is excepted from the definition of “state employee” in subdivision (c) of Section 3513, and an officer or employee of the executive branch of state government who is not a member of the civil service.

SEC. 15. Section 20677.95 is added to the Government Code, to read:

20677.95. (a) Notwithstanding Section 20687, effective with the beginning of the September 2010 pay period, the normal rate of contribution for state peace officer/firefighter members who are represented by State Bargaining Unit 8 shall be 10 percent of the compensation in excess of two hundred thirty-eight dollars (\$238) per month paid to those members.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant

to Section 3517.5 or pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, the memorandum of understanding shall be controlling without further legislative action, except that if those provisions of a memorandum of understanding require the expenditure of funds, those provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(c) Consistent with the normal rate of contribution for all members identified in this subdivision, the Director of the Department of Personnel Administration may exercise his or her discretion to establish the normal rate of contribution for a related state employee who is excepted from the definition of “state employee” in subdivision (c) of Section 3513, and an officer or employee of the executive branch of state government who is not a member of the civil service.

SEC. 16. Section 21353 of the Government Code is amended to read:

21353. (a) The combined current and prior service pensions for a local miscellaneous member, a school member, a state miscellaneous or state industrial member, or a university member is a pension derived from the contributions of the employer sufficient, when added to the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of retirement, to equal the fraction of one-fiftieth of the member’s final compensation set forth opposite the member’s age at retirement, taken to the preceding completed quarter year, in the following table, multiplied by the number of years of current and prior service except service in a category of membership other than that of state or state industrial member, local miscellaneous member, school member, or a university member, or service covered under this First Tier retirement formula, with which the member is entitled to be credited at retirement:

Age of Retirement	Fraction
50 .....	.546
50¼ .....	.554
50½ .....	.562
50¾ .....	.570
51 .....	.578

51¼ .....	.586
51½ .....	.595
51¾ .....	.603
52 .....	.612
52¼ .....	.621
52½ .....	.630
52¾ .....	.639
53 .....	.648
53¼ .....	.658
53½ .....	.668
53¾ .....	.678
54 .....	.688
54¼ .....	.698
54½ .....	.709
54¾ .....	.719
55 .....	.730
55¼ .....	.741
55½ .....	.753
55¾ .....	.764
56 .....	.776
56¼ .....	.788
56½ .....	.800
56¾ .....	.813
57 .....	.825
57¼ .....	.839
57½ .....	.852
57¾ .....	.865
58 .....	.879
58¼ .....	.893
58½ .....	.908
58¾ .....	.923
59 .....	.937
59¼ .....	.953
59½ .....	.969
59¾ .....	.985
60	1.000
60¼	1.017
60½	1.034
60¾	1.050
61	1.067

61¼	1.084
61½	1.101
61¾	1.119
62	1.136
62¼	1.154
62½	1.173
62¾	1.191
63 and over	1.209

(b) The fractions specified in the above table shall be reduced by one-third as applied to that part of final compensation that does not exceed four hundred dollars (\$400) per month for all service of a member any of whose service has been included in the federal system. This reduction shall not apply to a member employed by a contracting agency that enters into a contract after July 1, 1971, and elects not to be subject to this paragraph or with respect to service rendered after the termination of coverage under the federal system with respect to the coverage group to which the member belongs.

(c) The improved retirement allowance provided by this section is granted subject to future reduction prior to a member's retirement, by offset of federal system benefits or otherwise, as the Legislature may from time to time deem appropriate because of changes in the federal system benefits.

(d) With the exception of state miscellaneous members for service rendered for the California State University or the legislative or judicial branch of government, this section shall apply to state miscellaneous and state industrial members who are not employed by the state on or after January 1, 2000.

(e) (1) This section shall apply to a state miscellaneous or industrial member who is employed by the state for the first time and becomes a state miscellaneous or industrial member of the system on or after the first day of the pay period following the effective date of the act adding this subdivision, and is represented by State Bargaining Unit 12, 16, 18, or 19. With respect to related state miscellaneous or industrial members in managerial, supervisory, or confidential positions and officers or employees of the executive branch of state government who are not members of the civil service, the Director of the Department of Personnel

Administration may exercise his or her discretion whether to approve their status in writing to the board.

(2) This subdivision does not apply to:

(A) Former state employees previously employed before the first day of the pay period following the effective date of this subdivision, who return to state employment on or after the first day of the pay period following the effective date of this subdivision.

(B) State employees hired prior to the first day of the pay period following the effective date of this subdivision, who were subject to Section 20281.5 during the first 24 months of state employment.

(C) State employees hired prior to the first day of the pay period following the effective date of this subdivision, who become subject to representation by State Bargaining Unit 12, 16, 18, or 19 on or after the first day of the pay period following the effective date of the act adding this subdivision.

(D) State employees on an approved leave of absence employed before the first day of the pay period following the effective date of this subdivision, who return to active employment on or after the first day of the pay period following the effective date of the act adding this subdivision.

(f) (1) This section shall apply to a state miscellaneous or industrial member who is employed by the state for the first time and becomes a state miscellaneous or industrial member of the system on or after October 31, 2010, and is represented by State Bargaining Unit 5 or 8. With respect to related state miscellaneous or industrial members in managerial, supervisory, or confidential positions and officers or employees of the executive branch of state government who are not members of the civil service, the Director of the Department of Personnel Administration may exercise his or her discretion whether to approve their status in writing to the board.

(2) This subdivision does not apply to:

(A) Former state employees previously employed before October 31, 2010, who return to state employment on or after October 31, 2010.

(B) State employees hired prior to October 31, 2010, who were subject to Section 20281.5 during the first 24 months of state employment.

(C) State employees hired prior to October 31, 2010, who become subject to representation by State Bargaining Unit 5 or 8 on or after October 31, 2010.

(D) State employees on an approved leave of absence employed before October 1, 2010, who return to active employment on or after October 31, 2010.

SEC. 17. Section 21354.1 of the Government Code is amended to read:

21354.1. (a) The combined current and prior service pensions for school members, state miscellaneous or state industrial members, or university members who are subject to the provisions of this section is a pension derived from the contributions of the employer sufficient, when added to the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of retirement, to equal the fraction of one-fiftieth of the member's final compensation set forth opposite the member's age at retirement, taken to the preceding completed quarter year, in the following table, multiplied by the number of years of current and prior service, except service in a category of membership other than that of a school member, state miscellaneous or state industrial member, or university member or service covered under this retirement formula with which the member is entitled to be credited at retirement:

Age at retirement	Fraction
50	0.550
50¼	0.573
50½	0.595
50¾	0.618
51	0.640
51¼	0.663
51½	0.685
51¾	0.708
52	0.730
52¼	0.753
52½	0.775
52¾	0.798
53	0.820
53¼	0.843

53½	0.865
53¾	0.888
54	0.910
54¼	0.933
54½	0.955
54¾	0.978
55	1.000
55¼	1.008
55½	1.016
55¾	1.024
56	1.032
56¼	1.040
56½	1.048
56¾	1.055
57	1.063
57¼	1.071
57½	1.079
57¾	1.086
58	1.094
58¼	1.102
58½	1.110
58¾	1.118
59	1.125
59¼	1.134
59½	1.141
59¾	1.149
60	1.157
60¼	1.165
60½	1.173
60¾	1.180
61	1.188
61¼	1.196
61½	1.203
61¾	1.211
62	1.219
62¼	1.227
62½	1.235
62¾	1.243
63 and over	1.250

(b) The fraction specified in the above table shall be reduced by one-third as applied to that part of final compensation that does not exceed four hundred dollars (\$400) per month for all service of a member any of whose service has been included in the federal system. This subdivision shall not apply to school members whose service is included in the federal system with respect to service performed on or after January 1, 2001.

(c) This section shall supersede Section 21353 for all school members, all university members, and all state miscellaneous members, with respect to service rendered for the California State University or the legislative or judicial branch of government, who retire on or after January 1, 2000.

(d) This section shall also supersede Section 21353 for state miscellaneous or state industrial members, for service not subject to subdivision (c), who are employed by the state on or after January 1, 2000, and who do not elect under Section 21070.5 to be subject to Second Tier benefits.

(e) Operation and application of this section are subject to the limitations set forth in Section 21251.13.

(f) Notwithstanding any other provision of this section, this section shall not apply to a state miscellaneous or industrial member who is employed by the state for the first time and becomes a state miscellaneous or industrial member of the system on or after the first day of the pay period following the effective date of the act adding this subdivision, and is represented by State Bargaining Unit 12, 16, 18, or 19. With respect to related state miscellaneous or industrial members in managerial, supervisory, or confidential positions and officers or employees of the executive branch of state government who are not members of the civil service, the Director of the Department of Personnel Administration may exercise his or her discretion whether to approve their status in writing to the board.

(g) Notwithstanding any other provision of this section, this section shall not apply to a state miscellaneous or industrial member who is employed by the state for the first time and becomes a state miscellaneous or industrial member of the system on or after October 31, 2010, and is represented by State Bargaining Unit 5 or 8. With respect to related state miscellaneous or industrial members in managerial, supervisory, or confidential positions and officers or employees of the executive branch of

state government who are not members of the civil service, the Director of the Department of Personnel Administration may exercise his or her discretion whether to approve their status in writing to the board.

SEC. 18. Section 21363.1 of the Government Code is amended to read:

21363.1. (a) The combined current and prior service pensions for state peace officer/firefighter members subject to this section with respect to state peace officer/firefighter service, and for local safety members with respect to local safety service rendered to a contracting agency that is subject to this section, is a pension derived from the contributions of the employer sufficient when added to the service retirement annuity that is derived from the accumulated normal contributions of the state peace officer/firefighter member or local safety member at the date of his or her retirement to equal the fraction of 3 percent of his or her final compensation set forth opposite his or her age at retirement taken to the preceding completed quarter year, in the following table, multiplied by the number of years of state peace officer/firefighter service or local safety service subject to this section with which he or she is credited at retirement:

Age at Retirement	Fraction
50 .....	.800
50¼ .....	.810
50½ .....	.820
50¾ .....	.830
51 .....	.840
51¼ .....	.850
51½ .....	.860
51¾ .....	.870
52 .....	.880
52¼ .....	.890
52½ .....	.900
52¾ .....	.910
53 .....	.920
53¼ .....	.930
53½ .....	.940
53¾ .....	.950

54 .....	.960
54¼ .....	.970
54½ .....	.980
54¾ .....	.990
55 and over	1.000

(b) In no event shall the current service pension and the combined current and prior service pensions under this section for all service to all employers exceed an amount that, when added to the service retirement annuity related to that service, equals 85 percent of final compensation. For state peace officer/firefighter members with respect to service for all state employers under this section, the benefit shall not exceed 90 percent of final compensation. If the pension relates to service to more than one employer and would otherwise exceed that maximum, the pension payable with respect to each employer shall be reduced in the same proportion as the allowance based on service to that employer bears to the total allowance computed as though there were no limit, so that the total of the pensions shall equal the maximum. Where a state or local member has service under this section with both state and local agency employers, the higher maximum shall apply and the additional benefit shall be funded by increasing the member's pension payable with respect to the employer for whom the member performed the service subject to the higher maximum.

(c) This section shall supersede Section 21363 for state peace officer/firefighter members with respect to service rendered for the California State University or the legislative or judicial branch of government.

(d) This section shall also supersede Section 21363 for state peace officer/firefighter members, for service not subject to subdivision (c), who are employed by the state on or after January 1, 2000.

(e) This section shall not apply to any contracting agency nor its employees unless and until the agency elects to be subject to the provisions of this section by amendment to its contract made in the manner prescribed for approval of contracts or, in the case of contracts made after the date this section becomes operative, by express provision in the contract making the contracting agency subject to this section. The operative date of this section for a local

safety member shall be the effective date of the amendment to his or her employer's contract electing to be subject to this section.

(f) This section shall supersede Section 21363, 21366, 21368, 21369, or 21370, whichever is then applicable, with respect to local safety members who retire after the date this section becomes applicable to their respective employers.

(g) The Legislature reserves, with respect to any member subject to this section, the right to provide for the adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the earlier age of service retirement made possible by the benefits under this section.

(h) The Legislature reserves the right to subsequently modify or amend this part in order to completely effectuate the intent and purposes of this section and the right to not provide any new comparable advantages if disadvantages to employees result from any modification or amendment.

(i) Operation and application of this section are subject to the limitations set forth in Section 21251.13.

(j) This section shall apply to a state patrol member who is employed by the state for the first time and becomes a state patrol member of the system on or after October 31, 2010, and is represented by State Bargaining Unit 5. With respect to related state patrol members in managerial, supervisory, or confidential positions and officers or employees of the executive branch of state government who are not members of the civil service, the Director of the Department of Personnel Administration may exercise his or her discretion whether to approve their status in writing to the board.

(k) This section shall apply to a state peace officer/firefighter member who is employed by the state for the first time and becomes a state peace officer/firefighter member of the system on or after October 31, 2010, and is represented by State Bargaining Unit 8. With respect to related state peace officer/firefighter members in managerial, supervisory, or confidential positions and officers or employees of the executive branch of state government who are not members of the civil service, the Director of the Department of Personnel Administration may exercise his or her discretion whether to approve their status in writing to the board.

(l) Subdivisions (j) and (k) do not apply to:

(1) Former state employees previously employed before October 31, 2010, who return to state employment on or after October 31, 2010.

(2) State employees hired prior to October 31, 2010, who were subject to Section 20281.5 during the first 24 months of state employment.

(3) State employees hired prior to October 31, 2010, who become subject to representation by State Bargaining Unit 5 or 8 on or after October 31, 2010.

(4) State employees on an approved leave of absence employed before October 31, 2010, who return to active employment on or after October 31, 2010.

SEC. 19. Section 21363.4 of the Government Code is amended to read:

21363.4. (a) Upon attaining the age of 50 years or more, the combined current and prior service pension for a state peace officer/firefighter member described in subdivision (c) who retires or dies on or after January 1, 2006, is a pension derived from the contributions of the employer sufficient when added to the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of his or her retirement to equal 3 percent of his or her final compensation at retirement, multiplied by the number of years of state peace officer/firefighter service, as defined in subdivision (d), subject to this section with which he or she is credited at retirement.

(b) For state peace officer/firefighter members, with respect to service for all state employers under this section, the current service pension and the combined current and prior service pension under this section shall not exceed an amount that, when added to the service retirement annuity related to that service, equals 90 percent of final compensation. If the pension relates to service to more than one employer and would otherwise exceed that maximum, the pension payable with respect to each employer shall be reduced in the same proportion as the allowance based on service to that employer bears to the total allowance computed as though there were no limit, so that the total of the pensions shall equal the maximum.

(c) For purposes of this section, “state peace officer/firefighter member” means state peace officer/firefighter members under this

part who, on or after January 1, 2006, are employed by the state and are members of State Bargaining Unit 6 or State Bargaining Unit 8, and may include state peace officer/firefighter members in related managerial, supervisory, or confidential positions and officers or employees of the executive branch of state government who are not members of the civil service, provided the Department of Personnel Administration has approved their inclusion in writing to the board.

(d) For purposes of this section, “state peace officer/firefighter service” means service performed by a state peace officer/firefighter member while a member of State Bargaining Unit 6 or State Bargaining Unit 8, and may include state peace officer/firefighter service in related managerial, supervisory, or confidential positions or as officers or employees of the executive branch of state government who are not members of the civil service, provided the Department of Personnel Administration has approved their inclusion in writing to the board.

(e) This section shall supersede Section 21363 or 21363.1, whichever is applicable, with respect to state peace officer/firefighter members and service as defined herein.

(f) The Legislature reserves, with respect to any member subject to this section, the right to provide for the adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the earlier ages of service retirement made possible by the benefits under this section.

(g) Notwithstanding any other provision of this section, this section shall not apply to a state peace officer/firefighter member who is employed by the state for the first time and becomes a state peace officer/firefighter member of the system on or after October 31, 2010, and is represented by State Bargaining Unit 8. With respect to related state peace officer/firefighter members in managerial, supervisory, or confidential positions and officers or employees of the executive branch of state government who are not members of the civil service, the Director of the Department of Personnel Administration may exercise his or her discretion whether to approve their status in writing to the board.

SEC. 20. Section 21369.1 of the Government Code is amended to read:

21369.1. (a) The combined current and prior service pensions for state safety members subject to this section with respect to state safety service that is subject to this section is a pension derived from the contributions of the employer sufficient when added to the service retirement annuity that is derived from the accumulated normal contributions of the state safety member at the date of his or her retirement to equal the fraction of one-fiftieth of his or her final compensation set forth opposite his or her age at retirement taken to the preceding completed quarter year, in the following table, multiplied by the number of years of state safety service subject to this section with which he or she is credited at retirement.

Age at Retirement	Fraction
50	0.8500
50¼	0.8625
50½	0.8750
50¾	0.8875
51	0.9000
51¼	0.9125
51½	0.9250
51¾	0.9375
52	0.9500
52¼	0.9625
52½	0.9750
52¾	0.9875
53	1.0000
53¼	1.0320
53½	1.0630
53¾	1.0940
54	1.1250
54¼	1.1570
54½	1.1880
54¾	1.2190
55 and over	1.2500

(b) For state safety members with respect to service for all state employers under this section, the benefit shall not exceed 80 percent of final compensation. If the pension relates to service to more than one employer, and would otherwise exceed that

maximum, the pension payable with respect to each employer shall be reduced in the same proportion as the allowance based on service to that employer bears to the total allowance computed as though there were no limit, so that the total of the pensions shall equal the maximum.

(c) This section shall supersede Section 21369 for state safety members with respect to service rendered for the California State University.

(d) This section shall also supersede Section 21369 for state safety members, for service not subject to subdivision (c), who are employed by the state on or after January 1, 2000.

(e) The Legislature reserves, with respect to any member subject to this section, the right to provide for the adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the earlier age of service retirement made possible by the benefits under this section.

(f) The Legislature reserves the right to subsequently modify or amend this part in order to completely effectuate the intent and purposes of this section and the right to not provide any new comparable advantages if disadvantages to employees result from any modification or amendment.

(g) Operation and application of this section are subject to the limitations set forth in Section 21251.13.

(h) Notwithstanding any other provision of this section, this section shall not apply to a state safety member who is employed by the state for the first time and becomes a state safety member of the system on or after the first day of the pay period following the effective date of the act adding this subdivision, and is represented by State Bargaining Unit 12, 16, 18, or 19. With respect to related state safety members in managerial, supervisory, or confidential positions and officers or employees of the executive branch of state government who are not members of the civil service, the Director of the Department of Personnel Administration may exercise his or her discretion whether to approve their status in writing to the board.

SEC. 21. Section 21369.2 is added to the Government Code, to read:

21369.2. (a) The combined prior and current service pension for a state safety member, upon retirement after attaining the age of 55 years, is a pension derived from contributions of an employer sufficient, when added to that portion of the service retirement annuity that is derived from the accumulated normal contributions of the member at the date of his or her retirement, to equal one-fiftieth of his or her final compensation multiplied by the number of years of state safety, that is credited to him or her as a state safety member subject to this section at retirement.

(b) Upon retirement for service prior to attaining the age of 55 years, the percentage of final compensation payable for each year of credited service that is subject to this section shall be the product of 2 percent multiplied by the factor set forth in the following table for his or her actual age at retirement:

Age at Retirement	Fraction
50	0.713
50 $\frac{1}{4}$	0.725
50 $\frac{1}{2}$	0.737
50 $\frac{3}{4}$	0.749
51	0.761
51 $\frac{1}{4}$	0.775
51 $\frac{1}{2}$	0.788
51 $\frac{3}{4}$	0.801
52	0.814
52 $\frac{1}{4}$	0.828
52 $\frac{1}{2}$	0.843
52 $\frac{3}{4}$	0.857
53	0.871
53 $\frac{1}{4}$	0.886
53 $\frac{1}{2}$	0.902
53 $\frac{3}{4}$	0.917
54	0.933
54 $\frac{1}{4}$	0.950
54 $\frac{1}{2}$	0.966
54 $\frac{3}{4}$	0.983
55	1.0000
55 $\frac{1}{4}$	1.0125
55 $\frac{1}{2}$	1.0250

55¾.....	1.0375
56	1.0500
56¼.....	1.0625
56½.....	1.0750
56¾.....	1.0875
57	1.1000
57¼.....	1.1125
57½.....	1.1250
57¾.....	1.1375
58	1.1500
58¼.....	1.1625
58½.....	1.1750
58¾.....	1.1875
59	1.2000
59¼.....	1.2125
59½.....	1.2250
59¾.....	1.2375
60 and over	1.2500

(c) In no event shall the total pension for all service under this section exceed an amount that, when added to the service retirement annuity related to that service, equals 80 percent of final compensation. If the pension relates to service to more than one employer and would otherwise exceed that maximum, the pension payable with respect to each employer shall be reduced in the same proportion as the allowance based on service to that employer bears to the total allowance computed as though there were no limit, so that the total of those pensions shall equal the maximum. Where a state member has service under this section with both state and local agency employers, the higher maximum shall apply and the additional benefit shall be funded by increasing the member's pension payable with respect to the employer for whom the member performed the service subject to the higher maximum.

(d) The Legislature reserves, with respect to any member subject to this section, the right to provide for the adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the earlier age of service retirement made possible by the benefits under this section.

(e) This section shall apply to a state safety member who is employed by the state for the first time and becomes a state safety member of the system on or after the first day of the pay period following the effective date of this section, and is represented by State Bargaining Unit 12, 16, 18, or 19. With respect to related state safety members in managerial, supervisory, or confidential positions and officers or employees of the executive branch of state government who are not members of the civil service, the Director of the Department of Personnel Administration may exercise his or her discretion whether to approve their status in writing to the board.

(f) This section does not apply to:

(1) Former state employees previously employed before the first day of the pay period following the effective date of this subdivision, who return to state employment on or after the first day of the pay period following the effective date of this subdivision.

(2) State employees hired prior to the first day of the pay period following the effective date of this subdivision, who were subject to Section 20281.5 during the first 24 months of state employment.

(3) State employees hired prior to the first day of the pay period following the effective date of this subdivision, who become subject to representation by State Bargaining Unit 12, 16, 18, or 19 on or after the first day of the pay period following the effective date of this subdivision.

(4) State employees on an approved leave of absence employed before the first day of the pay period following the effective date of this subdivision, who return to active employment on or after the first day of the pay period following the effective date of this subdivision.

SEC. 22. This bill shall become operative only if Senate Bill 846 of the 2009–10 Regular Session is enacted and takes effect on or before January 1, 2011.

SEC. 23. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the provisions of this act to be applicable as soon as possible for the 2010–11 fiscal year, and thereby facilitate the

orderly administration of state government at the earliest time possible, it is necessary that this act take effect immediately.

Approved _____, 2010

Governor